

Regular Meeting

Agenda Item #	3
Meeting Date	November 13, 2006
Prepared By	Jessie Carpenter City Clerk
Approved By	Barbara B. Matthews City Manager

Discussion Item	Discussion of Special Election and (tentative) Resolution Establishing a Date for a Ward 5 Special Election
Background	<p>Ward 5 Councilmember Marc Elrich has been elected to serve on the Montgomery County Council. His term will begin on December 4, 2006. For the purposes of this discussion, staff has assumed that Councilmember Elrich would resign his City Council seat effective December 3.</p> <p>Pursuant to Section 308 of the City Charter, if a vacancy on the Council occurs more than 240 days before the next regularly scheduled City election, a special election shall be held to fill the vacancy. The next regularly scheduled City election will be held on November 6, 2007.</p> <p>Section 308(b) of the City Charter specifies that the remaining members of the Council shall, by resolution, establish a date for the special election which shall be not less than 45 days nor more than 60 days from the date of the vacancy. Using the December 3 resignation date as a baseline, the date of the special election must fall between January 17 and February 1, 2007.</p> <p>In order for a council candidate's name to be placed on the special election ballot, he or she must submit a petition at least 20 days prior to the election, on a form provided by the City Clerk, and signed by at least ten eligible voters in the ward. There is no nominating caucus for a special election.</p> <p>Pursuant to Section 609 of the Charter: "All special City elections shall be conducted by the Council in the same manner, as far as practicable, as set forth in this Charter." The City Attorney has opined that the election should be held on a Tuesday and that the polling place should be open from 7:00 a.m. to 8:00 p.m. Two potential timelines have been prepared for the special election, assuming a special election on Tuesday, January 30 or Tuesday, January 23.</p> <p>Because of the constrained time frame for publicizing the special election, staff recommends that the City Council set a date as soon as possible. This would enable staff to provide notice in the December 2006 Takoma Park Newsletter. The City will not be publishing a January issue of the Newsletter; consequently, the staff would recommend sending a notice and sample ballot to all registered voters in Ward 5.</p> <p>The Council will need to adopt a two reading ordinance setting forth the location of the polling place and other details of the election. Staff recommends that adoption of that ordinance be scheduled for December.</p>

Policy	City Charter and Takoma Park Code, Chapter 5 - Elections
Fiscal Impact	The FY07 Budget includes \$3,500 for FY07 election expenses.
Attachments	Draft Resolution Establishing a Date for the Ward 5 Special Election Excerpts from the City Charter Election Timetables
Recommendation	Council to discuss the special election process and set a date for the election.
Special Consideration	

Introduced by:

Resolution Date:

CITY OF TAKOMA PARK, MARYLAND

RESOLUTION 2006-__

ESTABLISHING A DATE FOR A WARD 5 SPECIAL ELECTION

WHEREAS, Ward 5 Councilmember Marc Elrich has been elected to serve on the Montgomery County Council where his term will begin on December 4, 2006; and

WHEREAS, Councilmember Elrich has submitted his resignation from the City of Takoma Park Council effective December 3, 2006, thus creating a vacancy on the Council; and

WHEREAS, pursuant to Section 308 of the City Charter, if a vacancy on the Council occurs more than 240 days before the next regularly scheduled City election, then a special election shall be held to fill the vacancy; and

WHEREAS, the next regularly scheduled City election will be held on November 6, 2007, which is more than 240 days after the effective date of Councilmember Elrich's resignation from the Council; and

WHEREAS, Section 308(b) of the City Charter specifies that the remaining members of the Council shall, by resolution, establish a date for the special election which shall be not less than 45 days nor more than 60 days from the date of the vacancy; and

WHEREAS, the Charter directs that the special election shall be conducted by the Council in the same manner, as far as practicable, as set forth in the Charter.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND THAT the special election to fill the Ward 5 Council vacancy shall be held on Tuesday, January ____, 2007; and

BE IT FURTHER RESOLVED that the Council shall adopt an ordinance designating a convenient polling place, specifying the voting system to be used, appointing judges of election, and providing for the conduct of said special election in accordance with the City Charter.

Adopted by the Council of the City of Takoma Park this ____ day of _____, 2006.

Section 308 Vacancies on the Council

(a) Method of Filling Vacancies. Should a vacancy on the Council occur more than two hundred and forty (240) days before the next regularly scheduled City election, a special election shall be held to fill the vacancy. If the vacancy occurs less than two hundred and forty (240) days before the next regularly scheduled City election, the remaining members of the Council by a majority vote shall, within sixty (60) days, appoint a person who is qualified in accordance with Section 302 or Section 304, as applicable, to fill such vacancy for the remainder of the unexpired term.

(b) Special Election. If a vacancy is to be filled by special election, the remaining members of the Council shall, by resolution, establish a date for the special election which shall be not less than forty-five (45) days nor more than sixty (60) days from the date of the vacancy.

(c) Ballot. If the requirements of Section 302 or Section 304, as applicable, are met, a person may have his/her name listed on the special election ballot as a candidate to fill a vacancy on the Council by submitting a petition to the City Clerk with a sufficient number of valid signatures at least twenty (20) days prior to the date scheduled for the special election.

(d) Petition. The petition must clearly state that its purpose is to place a specific person's name on the ballot at a special election to fill a vacancy on the Council of the City of Takoma Park, the office and/or ward that the election is being held to fill, and the date of the special election.

(1) For a Mayoral vacancy, a person must have the signatures of at least 30 qualified voters of the City in order to be listed on the special election ballot as a candidate.

(2) For a Councilmember vacancy, a person must have the signatures of at least 10 qualified voters of the ward in which there is a vacancy in order to be listed on the special election ballot as a candidate.

(3) A qualified voter may sign the petition of more than one person to fill a vacancy on the Council. Each qualified voter shall print his/her name under the signature and shall include his/her address and the date of his/her signature on the petition.

(4) Before listing a person's name on a special election ballot as a candidate to fill a vacancy on the Council, the City Clerk shall verify that sufficient signatures on a petition are from qualified voters of the City and for a Councilmember vacancy of the ward in which there is a vacancy. The invalidation of one signature on a petition shall not serve to invalidate any other signatures on a petition.

(e) Voting. For a Mayoral vacancy, all qualified voters of the City may vote in the special election to fill a vacancy on the Council. For a Councilmember vacancy, only qualified voters of the ward in which there is a vacancy may vote in the special election to fill a vacancy on the Council.

(f) Write-Ins Permitted. A qualified voter also may write in the name of a candidate on the special election ballot to fill a vacancy on the Council.

(g) Results of Special Election. The candidate who meets the qualifications for office as specified in Section 302 or Section 304, as applicable, and who receives a majority of votes in accordance with Section 606 in the special election to fill a vacancy on the Council shall be the winner and shall serve on the Council for the remainder of the unexpired term for which his/her predecessor was elected. (Charter Amendment Resolution 2006-1)

ARTICLE VI REGISTRATION, NOMINATIONS, AND ELECTIONS

Section 601 Qualifications of Voters

(a) Every person who (1) is a resident of Takoma Park, (2) is at least eighteen years of age or will be eighteen years of age on or before the date of the next City election, (3) has resided within the corporate limits of the City for 30 days immediately preceding the City election, (4) has not been convicted of theft or other infamous crime, unless the person has been pardoned or, in connection with a first conviction, has completed the sentence imposed for the conviction, including probation, (5) has not been convicted of buying or selling votes, (6) is not under guardianship for mental disability, and (7) is registered in accordance with the provisions of this charter, is a qualified voter of the City. Every qualified voter of the City is entitled to vote in all City elections.

(b) The City of Takoma Park shall be divided into six (6) wards for municipal voting purposes. The ward boundaries shall be established by ordinance and shall be reviewed after each decennial census. The boundary descriptions of the six (6) wards shall be kept on file for public view at all times in the office of the City Clerk.

Section 602 Lists of Registered Voters: Certification by Supervisors of Elections

(a) On the third Monday in September, prior to the City election, the City Clerk shall request from the Board of Elections supervisors for Montgomery County a certified, alphabetical list of the names and addresses of those people residing in the City and registered to vote.

(b) The Board of Elections supervisors shall, on or before the last Monday in October falling at least thirty (30) days prior to the election of each second year, certify to the Council revisions, if any, in the list so certified theretofore by them.

(c) Names of persons added by such revisions shall be deemed to have been certified originally, and those persons shall be entitled to vote in the next succeeding election; and names of persons removed by such revisions shall be deemed not to have been certified originally, and those persons shall not be entitled to vote in the next succeeding election notwithstanding the original certification of their names.

(d) In the event of a special election, including but not limited to special elections to fill Council vacancies and recall elections, at least thirty (30) days prior to the date of the election, the City Clerk shall request from the Board of Elections supervisors for Montgomery County certified, alphabetical lists of the names and addresses of those people residing in the City and registered to vote.

(e) The right to vote in City elections under this Charter shall depend entirely upon whether or not a person claiming such right shall have been certified in accordance with the provisions of this section and be a resident of the City at the time of the election.

(f) Right of appeal to the Circuit Court of Montgomery County is hereby given any person who shall consider herself/himself aggrieved by the omission of his/her name from any list of voters certified hereunder or revision thereof.

Section 603 Registration

(a) Any resident of Takoma Park who is a United States citizen may register to vote at the Board of Elections supervisors for Montgomery County any time these offices are open for business or by mail. Registration shall be permanent unless such registration shall be canceled as provided by state law. No person is entitled to vote unless properly registered.

(b) Any resident of Takoma Park who is not a United States citizen, and who is otherwise qualified to be registered as a voter in any election pursuant to Article I, Section I of the Constitution of Maryland, and Section 3-102 of Article 33, as amended, or any equivalent provision(s) of the Annotated Code of Maryland, may register with the City Clerk, who shall maintain a separate voter roll from the existing voter roll generated by the Montgomery County Board of Elections, to include the names of those non-United States Citizens. The City Clerk shall promptly send notice to any jurisdiction in the United States, if any, where the new registrant was formerly registered, requesting the cancellation of said voter's prior registration.

Section 607 Conduct of Elections Generally

(a) The Council, by ordinance, shall provide for said elections; shall designate in said ordinance a convenient polling place or places; shall appoint judges of election; shall designate the manner of holding said election; shall designate and provide the voting system to be used; and shall conduct said elections in accordance with the provisions of this section.

(b) Elections shall be conducted by the judges appointed by the Council under the supervision of the City Clerk, and shall be held at some convenient place or places to be designated by the Council; any vacancy in the list of judges occurring between their appointment and the election shall be filled by the Mayor. The polls shall be opened at 7:00 A.M. and closed at 8:00 P.M.

Section 608 Absentee Ballots

The Council, by ordinance, shall arrange for voting by absentee ballot for any qualified voter who is unable to cast a ballot during regularly scheduled hours on election day by reason of physical condition or necessary absence.

Section 609 Special Elections

All special City elections shall be conducted by the Council in the same manner, as far as practicable, as set forth in this Charter.

**City of Takoma Park, Maryland
2007 - Ward 5 Special Election
Election Timetable**

Friday, December 29, 2006

City Clerk requests certified list of Takoma Park Ward 5 voters from Montgomery County Board of Elections. (Charter, Section 602(d))

Tuesday, January 2, 2007

Voter Registration cut-off date. All new registrations and changes of address must have been received by the Montgomery County Board of Elections (or postmarked by Saturday, December 30, 2006). Voter Registration applications for non-U.S. Citizens must have been received by the City Clerk's Office by 5:00 p.m. on January 2, 2007. There will be no exceptions. Takoma Park residency must be met by December 31 (30 days prior to the election) in order to vote in the election.. (Charter, Section 601(a))

Wednesday, January 10, 2007, 5:00 p.m.

Petitions to place a candidate's name on the ballot for the Special Election must be received by the City Clerk by 5:00 p.m. on this date. (Charter, Section 308(c)).

Friday, January 19, 2007, 5:00 p.m. (or January 20 postmark)

Candidates' Initial Campaign Contribution Reports due to City Clerk - to include contributions received since November 8, 2005. (Takoma Park Code, Chapter 5.12.020(B)(1))

Tuesday, January 23, 2007, 4:00 p.m.

Last day to make application for regular Absentee Ballot. (Takoma Park Code, Chapter 5.20.020(C))

Wednesday, January 24, 2007

Emergency absentee balloting begins. (Takoma Park Code, 5.20.030(A))

Friday, January 26, 2007, 5:00 p.m.

Any write-in candidate who wishes to be pre-registered as a write-in candidate and to have his/her name posted in the voting booth for the purpose of identifying him/her as a candidate for office, must file his/her name with the City Clerk by this deadline. (Charter, Section 605)

Tuesday, January 30, 2007 – ELECTION DAY. Polls open 7:00 a.m. to 8:00 p.m.

Absentee ballots must be received by the City Clerk prior to the official closing of the polls on election day or postmarked **on or before** January 29. (Charter, Section 607(b), Section 609; Takoma Park Code, Chapter 5.20.060(B)(2))

Wednesday, January 31, 2007, 7:30 p.m.

Special meeting of the City Council to receive the certification of the election results.
(Charter, Section 611(b))

Friday, February 2, 2007, 5:00 p.m.

Deadline for contesting the results of the election and validity of Absentee Ballot voting.
(Takoma Park Code, Chapter 5.20.070(A))

Monday, February 5, 2007, 4:00 p.m.

Final Campaign Contribution Report due to City Clerk. (Takoma Park Code, Chapter 5.12.020(B)(2))

Monday, February 5, 2007

New Ward 5 Councilmember takes office. Swearing-in at 7:30 p.m. (Charter, Section 301)

On or before Friday, March 16, 2007

Deadline for holding a run-off election – if after the instant runoff vote count a tie occurs between or among all remaining candidates, then a runoff election between or among the tied candidates shall be held within forty-five (45) days after the date of the election.
(Charter, Section 606(h))

April 30, 2007

Deadline for keeping ballots, punch cards, voting machine records, and absentee ballots unless a court of competent jurisdiction orders the records kept for a longer period.

In the Event Any Election Contest is Filed by 5:00 p.m. on February 2, 2007

On or before Tuesday, February 6, 2007

In the event that an election contest is filed, Election Judges (3) report on Contest investigation and recommend action to Council. (Takoma Park Code, Chapter 5.16.070(B))

On or before Friday, February 9, 2007

Special Meeting of Council to determine any election contest(s). (Takoma Park Code, Chapter 5.20.070(B))

City of Takoma Park, Maryland
2007 - Ward 5 Special Election
Election Timetable
(Scenario 2 - Assuming a January 23, 2007 Special Election)

Friday, December 22, 2006

City Clerk requests certified list of Takoma Park Ward 5 voters from Montgomery County Board of Elections. (Charter, Section 602(d))

Tuesday, December 26, 2006

Voter Registration cut-off date. All new registrations and changes of address must have been received by the Montgomery County Board of Elections (or postmarked by Saturday, December 23, 2006). Voter Registration applications for non-U.S. Citizens must have been received by the City Clerk's Office by 5:00 p.m. on December 26, 2006. There will be no exceptions. Takoma Park residency must be met by December 24 (30 days prior to the election) in order to vote in the election. (Charter, Section 601(a))

Wednesday, January 3, 2007, 5:00 p.m.

Petitions to place a candidate's name on the ballot for the Special Election must be received by the City Clerk by 5:00 p.m. on this date. (Charter, Section 308(c)).

Friday, January 12, 2007, 5:00 p.m.

Candidates' Initial Campaign Contribution Reports due to City Clerk - to include contributions received since November 8, 2005. (Takoma Park Code, Section 5.12.020(B)(1))

Tuesday, January 16, 2007, 4:00 p.m.

Last day to make application for regular Absentee Ballot. (Takoma Park Code, Section 5.20.020(C))

Wednesday, January 17, 2007

Emergency absentee balloting begins. (Takoma Park Code, 5.20.030(A))

Friday, January 19, 2007, 5:00 p.m.

Any write-in candidate who wishes to be pre-registered as a write-in candidate and to have his/her name posted in the voting booth for the purpose of identifying him/her as a candidate for office, must file his/her name with the City Clerk by this deadline. (Charter, Section 605)

Tuesday, January 23, 2007 – ELECTION DAY. Polls open 7:00 a.m. to 8:00 p.m.

Absentee ballots must be received by the City Clerk prior to the official closing of the polls on election day or postmarked **on or before** January 22. (Charter, Section 607(b), Section 609; Takoma Park Code, Section 5.20.060(B)(2))

Wednesday, January 24, 2007, 7:30 p.m.

Special meeting of the City Council to receive the certification of the election results.
(Charter, Section 611(b))

Friday, January 26, 2007, 5:00 p.m.

Deadline for contesting the results of the election and validity of Absentee Ballot voting.
(Takoma Park Code, Section 5.20.070(A))

Monday, January 29, 2007, 4:00 p.m.

Final Campaign Contribution Report due to City Clerk. (Takoma Park Code, Section 5.12.020(B)(2))

Monday, February 5, 2007 (second Monday following their election)

New Ward 5 Councilmember takes office. Swearing-in at 7:30 p.m. (Charter, Section 301)